THE

AMERICAN JOURNAL

OF

INTERNATIONAL LAW

VOLUME 30

1936

PUBLISHED BY

THE AMERICAN SOCIETY OF INTERNATIONAL LAW

PUBLICATION OFFICE:
THE RUMFORD PRESS
CONCORD, N. H.

EDITORIAL AND EXECUTIVE OFFICE:
700 JACKSON PLACE, N.W.
WASHINGTON, D. C.

Copyright, 1936, by the American Society of International Law

BOARD OF EDITORS OF THE AMERICAN JOURNAL OF INTERNATIONAL LAW

CHANDLER P. ANDERSON, New York, N. Y.
EDWIN M. BORCHARD, Yale Law School.
PHILIP MARSHALL BROWN, Princeton University.
EDWIN D. DICKINSON, University of California School of Jurisprudence.
CHARLES G. FENWICK, Bryn Mawr College.
JAMES W. GARNER, University of Illinois.
MANLEY O. HUDSON, Harvard Law School.
CHARLES CHENEY HYDE, Columbia University Law School.
PHILIP C. JESSUP, Columbia University Law School.
ARTHUR K. KUHN, New York, N. Y.
JESSE S. REEVES, University of Michigan.
ELLERY C. STOWELL, American University.
LESTER H. WOOLSEY, Washington, D. C.
QUINCY WRIGHT, University of Chicago.

Honorary Editor-in-Chief

JAMES BROWN SCOTT, Washington, D. C.

Editor-in-Chief

GEORGE GRAFTON WILSON, Harvard University

Managing Editor

GEORGE A. FINCH, 700 Jackson Place, N. W., Washington, D. C.

The object of the AMERICAN SOCIETY OF INTERNATIONAL LAW is to foster the study of international law and promote the establishment of international relations on the basis of law and justice. For this purpose it will coöperate with other societies in this and other countries having the same object.

THE AMERICAN JOURNAL OF INTERNATIONAL LAW is supplied to all members of the SOCIETY without extra charge, as the membership fee of five dollars per annum includes the right to all issues of the JOURNAL published during the year for which the dues are paid. (Members residing in foreign countries outside the domestic postal zone pay one dollar extra per annum for foreign postage; Canada fifty cents extra.)

The annual subscription to non-members of the SOCIETY is five dollars per annum (plus the above mentioned sums for foreign postage) and should be placed with the AMERICAN SOCIETY OF INTERNATIONAL LAW, 700 Jackson Place, N. W., Washington, D. C.

Single copies of the JOURNAL will be supplied at $1.50 per copy.

Applications for membership in the SOCIETY, correspondence with reference to the JOURNAL, and books for review should be sent to GEORGE A. FINCH, Secretary and Managing Editor, 700 Jackson Place, N. W., Washington, D. C.

General
Wakes

CONTENTS OF VOLUME THIRTY

[No. 1, January, 1936, pp. 1–188; No. 2, April, 1936, pp. 189–376; No. 3, July, 1936, pp. 377–584; No. 4, October, 1936, pp. 585–799]

PAGE

THE FOURTEENTH YEAR OF THE PERMANENT COURT OF INTERNATIONAL JUSTICE. *Manley O. Hudson* 1

THE WAL WAL ARBITRATION. *Pitman B. Potter* 27

THE TEST OF AGGRESSION IN THE ITALO-ETHIOPIAN WAR. *Quincy Wright* 45

ACCEPTANCE OF GENERAL TREATY OF INTER-AMERICAN ARBITRATION. *Denys P. Myers* 57

THE PROCLAIMING OF TREATIES IN THE UNITED STATES. *Henry Reiff* 63

THE TREATY BACKGROUND OF THE ITALO-ETHIOPIAN DISPUTE. *W. B. Stern* 189

THE PROBLEM OF MEMEL. *Thorsten Kalijarvi* 204

TREATY-MAKING IN POST-WAR GERMANY. *Walter Schiffer* and *Francis O. Wilcox* .. 216

SOME ASPECTS OF THE JURISDICTION OF THE PERMANENT COURT OF INTERNATIONAL JUSTICE. *Sidney B. Jacoby* 233

ABUSE OF TERMS: "RECOGNITION": "WAR." *Thomas Baty* 377

THE MONROE DOCTRINE AND THE LEAGUE COVENANT. *John H. Spencer* 400

FUNDAMENTAL CONCEPTIONS OF INTERNATIONAL LAW IN THE JURISPRUDENCE OF THE PERMANENT COURT OF INTERNATIONAL JUSTICE. *H. Arthur Steiner* 414

COMPETENCE TO BIND THE STATE TO AN INTERNATIONAL ENGAGEMENT. *Charles Fairman* 439

THE 1936 RULES OF THE PERMANENT COURT OF INTERNATIONAL JUSTICE. *M. O. Hudson* 463

THE JAPANESE FOREIGN OFFICE. *Kenneth Colegrove* 585

SOVIET CITIZENSHIP. *Durward V. Sandifer* 614

THE MEANING OF DENIAL OF JUSTICE IN INTERNATIONAL LAW. *O. J. Lissitzyn* 632

EARLY AMERICAN ATTITUDE TOWARD NATURALIZED AMERICANS ABROAD. *R. L. Morrow* 647

SANCTIONS OF INTERNATIONAL COMMODITY AGREEMENTS. *Payson S. Wild* 664

EDITORIAL COMMENT:

When does war begin? *George Grafton Wilson* 80

The economic sanctions and the Kellogg Pact. *Arthur K. Kuhn* 83

Malevolent neutrality. *Philip Marshall Brown* 88

Sanctions *v.* neutrality. *Edwin Borchard* 91

The Elkton incident. *Jesse S. Reeves* 95

Recent German nationality legislation. *James W. Garner* 96

Settlement of claims between the United States and Mexico. *L. H. Woolsey* .. 99

Intercession against the persecution of Jews. *Ellery C. Stowell* 102

The Lwow Conference upon Teaching of International Law. *J. S. Reeves* 106

Reprisals on private property. *Edwin Borchard* 108

The fallacies of neutrality. *Lester H. Woolsey* 256

Toward further neutrality legislation. *Philip C. Jessup* 262

Relation of the Franco-Soviet Pact to the Locarno Treaty. *C. G. Fenwick* 265

President Roosevelt's proposal of an extraordinary Pan American conference. *Ellery C. Stowell* 270

Amendment of the Statute of the Permanent Court. *Manley O. Hudson* 273

The draft code of the International Diplomatic Academy on the fundamental principles of international law. *James W. Garner* 279

PAGE

Freedom to withdraw diplomatic relations. *Charles Cheney Hyde*..... 284
The good neighbor policy. *James Brown Scott*..... 287
Conquest today. *Charles Cheney Hyde*..... 471
The Monroe Doctrine distinguished in principle from mutual protective pacts. *Chandler P. Anderson*..... 477
Non-extradition of American citizens. *James W. Garner*..... 480
The Rhineland occupation and the enforcement of treaties. *Quincy Wright*... 486
Waiving of territorial jurisdiction. *George Grafton Wilson*..... 494
International measures for the relief of stateless persons. *A. K. Kuhn*..... 495
The admission of women to the British Foreign Service. *Ellery C. Stowell*.... 499
Neutral embargoes and commercial treaties. *Edwin Borchard*..... 501
The "failure" of the League of Nations. *Charles G. Fenwick*..... 506
The thirtieth annual meeting of the Society. *George A. Finch*..... 509
Chandler P. Anderson. In memoriam. *James Brown Scott*..... 674
Spain and the nations. *Ellery C. Stowell*..... 675
Non-recognition of illegal territorial annexations and claims to sovereignty. *James W. Garner*..... 679
The recognition of new States and new governments. *Philip M. Brown*..... 689
Effect of naturalization abroad of American citizens on their minor children born in the United States. *Edwin Borchard*..... 694
The new status of the Dardanelles. *Charles G. Fenwick*..... 701

CURRENT NOTES:
The annual meeting of the Society. *George A. Finch*..... 114
The late President Adatci. *Ake Hammarskjöld*..... 114
Telecommunications and neutrality. *Francis Colt de Wolf*..... 117
Settlement of the Jacob kidnaping case. *Lawrence Preuss*..... 123
Procedure for applying sanctions. *Denys P. Myers*..... 124
Henry Wheaton, "Elements of International Law," 1836–1936. *G. G. Wilson*... 707
Yosemite Conference of the Institute of Pacific Relations. *Quincy Wright*.... 708
The Franco-Soviet Treaty again: a footnote. *C. F. Ransom* and *R. B. Stewart* 712

CHRONICLE OF INTERNATIONAL EVENTS. *M. Alice Matthews*.....131, 291, 513, 715

JUDICIAL DECISIONS INVOLVING QUESTIONS OF INTERNATIONAL LAW:
U. S. Court of Customs and Patent Appeals:
U. S. *v.* Domestic Fuel Corp. and Geo. E. Warren Corp..... 142
Geo. E. Warren Corp. *v.* United States..... 730
U. S. Supreme Court:
Norman *v.* Baltimore & Ohio R. R. Co..... 300
Perry *v.* United States..... 316
High Court of Justice, King's Bench Div.:
International Trustee *v.* The King..... 324
Banco de Vizcaya *v.* Don Alfonso de Borbon y Austria..... 726
Arbitral awards:
Czechoslovakia *v.* Radio Corporation of America. *Apr. 1, 1932*..... 523
Radio Corporation of America *v.* China. *Apr. 13, 1935*..... 535

BOOK REVIEWS AND NOTES.....157, 338, 552, 736

BOOKS RECEIVED.....184, 371, 580, 763

PERIODICAL LITERATURE OF INTERNATIONAL LAW.....186, 374, 582, 766

INDEX 770

SUPPLEMENT SECTION OF OFFICIAL DOCUMENTS. (Separately paged and indexed.)

CONTENTS

PAGE

THE FOURTEENTH YEAR OF THE PERMANENT COURT OF INTERNATIONAL JUSTICE. *Manley O. Hudson* 1

THE WAL WAL ARBITRATION. *Pitman B. Potter* 27

THE TEST OF AGGRESSION IN THE ITALO-ETHIOPIAN WAR. *Quincy Wright* 45

ACCEPTANCE OF THE GENERAL TREATY OF INTER-AMERICAN ARBITRATION. *Denys P. Myers* 57

THE PROCLAIMING OF TREATIES IN THE UNITED STATES. *Henry Reiff* 63

EDITORIAL COMMENT:

When does war begin? *George Grafton Wilson* 80
The economic sanctions and the Kellogg Pact. *Arthur K. Kuhn* 83
Malevolent neutrality. *Philip Marshall Brown* 88
Sanctions *v.* neutrality. *Edwin Borchard* 91
The Elkton incident. *J. S. Reeves* 95
Recent German nationality legislation. *James W. Garner* 96
Settlement of claims between the United States and Mexico. *L. H. Woolsey* ... 99
Intercession against the persecution of Jews. *E. C. Stowell* 102
The Lwow Conference upon the Teaching of International Law and Relations. *J. S. Reeves* 106
Reprisals on private property. *Edwin Borchard* 108

CURRENT NOTES:

The annual meeting of the Society. *George A. Finch* 114
The late President Adatci. *Åke Hammarskjöld* 114
Telecommunications and neutrality. *Francis Colt de Wolf* 117
Settlement of the Jacob kidnaping case. *Lawrence Preuss* 123
Procedure for applying sanctions. *Denys P. Myers* 124

CHRONICLE OF INTERNATIONAL EVENTS. *M. Alice Matthews* 131

JUDICIAL DECISIONS INVOLVING QUESTIONS OF INTERNATIONAL LAW:

U. S. Court of Customs and Patent Appeals: U. S. *v.* Domestic Fuel Corp. and Geo. E. Warren Corp 142

BOOK REVIEWS AND NOTES:

Académie de Droit International, *Recueil des Cours, 1934*, 157; Frankenstein, *Internationales Privatrecht*, 164; Gidel, *Le Droit International Public de la Mer*, III, 165; Hudson, *By Pacific Means*, 167; Lansing, *War Memoirs*, 167; Molony, *Nationality and the Peace Treaties*, 170; Shepardson, *The United States in World Affairs, 1934–1935*, 171; Simonds and Emeny, *The Price of Peace*, 172; Simonds, *American Foreign Policy in the Post-War Years*, 172; Willoughby, *The Sino-Japanese Controversy and the League of Nations*, 174; Work, *Ethiopia, A Pawn in European Diplomacy*, 175.

Briefer notices: Braatoy, 176; Deike and Müller, 177; Glanville, 177; Gürke, 178; Mikliszanski, 178; Manning, 178; Kennedy and Schlosberg, 179; Millis, 179; Problems of Peace, 180; Sears, 181; Schmeckebier, 181; Sosa-Rodriguez, 181; Van Eysinga, 182; Watkins, 183; Wright, 183.

Books Received 184

PERIODICAL LITERATURE OF INTERNATIONAL LAW. *Eleanor H. Finch* 186

SUPPLEMENT SECTION OF OFFICIAL DOCUMENTS. (Separately paged and indexed.)

BOARD OF EDITORS OF THE AMERICAN JOURNAL OF INTERNATIONAL LAW

CHANDLER P. ANDERSON, New York, N. Y.
EDWIN M. BORCHARD, Yale Law School.
PHILIP MARSHALL BROWN, Princeton University.
EDWIN D. DICKINSON, University of California School of Jurisprudence.
CHARLES G. FENWICK, Bryn Mawr College.
JAMES W. GARNER, University of Illinois.
MANLEY O. HUDSON, Harvard Law School.
CHARLES CHENEY HYDE, Columbia University Law School.
PHILIP C. JESSUP, Columbia University Law School.
ARTHUR K. KUHN, New York, N. Y.
JESSE S. REEVES, University of Michigan.
ELLERY C. STOWELL, American University.
LESTER H. WOOLSEY, Washington, D. C.
QUINCY WRIGHT, University of Chicago.

Honorary Editor-in-Chief

JAMES BROWN SCOTT, Washington, D. C.

Editor-in-Chief

GEORGE GRAFTON WILSON, Harvard University

Managing Editor

GEORGE A. FINCH, 700 Jackson Place, N. W., Washington, D. C.

The object of the AMERICAN SOCIETY OF INTERNATIONAL LAW is to foster the study of international law and promote the establishment of international relations on the basis of law and justice. For this purpose it will coöperate with other societies in this and other countries having the same object.

THE AMERICAN JOURNAL OF INTERNATIONAL LAW is supplied to all members of the SOCIETY without extra charge, as the membership fee of five dollars per annum includes the right to all issues of the JOURNAL published during the year for which the dues are paid. (Members residing in foreign countries outside the domestic postal zone pay one dollar extra per annum for foreign postage; Canada fifty cents extra.)

The annual subscription to non-members of the SOCIETY is five dollars per annum (plus the above mentioned sums for foreign postage) and should be placed with the AMERICAN SOCIETY OF INTERNATIONAL LAW, 700 Jackson Place, N. W., Washington, D. C.

Single copies of the JOURNAL will be supplied at $1.50 per copy.

Applications for membership in the SOCIETY, correspondence with reference to the JOURNAL, and books for review should be sent to GEORGE A. FINCH, Secretary and Managing Editor, 700 Jackson Place, N. W., Washington, D. C.